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SUBJECT: SEARCH FOR NEW SUPREME COURT CHIEF JUSTICE NARROWS
DOWN TO THREE CANDIDATES

REF: A. MANILA 5688

1B. MANILA 5012

11. (U) This message is Sensitive But Unclassified -- Please handle accordingly.

12. (SBU) Summary: The GRP's Judicial and Bar Council has submitted to President Arroyo its "short list" -- consisting of the three most senior associate justices -- to succeed current Supreme Court Chief Justice Hilario Davide who is retiring on December 20. President Arroyo must appoint a successor from the list within 90 days of Davide's retirement. A USG-funded project is underway to ensure greater transparency in the appointment process. The new Chief Justice will need to press forward on the judicial reforms begun by the highly-regarded Davide. End Summary.

Search for Next Chief Justice

13. (U) The search for the 21st Chief Justice of the Philippine Supreme Court is almost at an end. From November 4-10, the Judicial and Bar Council (JBC), a presidentially-appointed advisory group, solicited nominations to fill the Chief Justice position. (Note: The JBC consists of representatives from the House, the Senate, the Department of Justice, the Integrated Bar of the Philippines, academia, and the private sector. A retired representative of the judiciary also sits on the panel. End Note.) The position is being vacated by Chief Justice Hilario G. Davide, Jr., who is scheduled to step down from the bench upon reaching the mandatory retirement age of 70 on December 20 this year. (Note: Davide has been Chief Justice since 1998 and was an associate justice before that. End Note.) When nominations closed on November 10, the list consisted of the five most senior incumbent associate justices sitting on the Supreme Court.

14. (U) The JBC was scheduled to hold public interviews of all candidates on December 1. On that date, however, the two least senior jurists on the list, Justices Consuelo Ynares-Santiago and Angelina Sandoval-Gutierrez, recused themselves from consideration. In response, the JBC canceled public hearings on the candidates, stating that the list was now "a fait accompli" and the three remaining names would be submitted to Malacanang for review. (Note: The JBC is required by the Constitution to submit to the President a list of three candidates for the Chief Justice position. Traditionally, the JBC has submitted the list to Malacanang just before the incumbent Chief Justice retires. End Note.)

The Three Candidates

15. (U) The three remaining candidates for Chief Justice are:

-- Associate Justice Reynato S. Puno, age 65: The most senior Justice after Davide, Puno was appointed to the Supreme Court in 1992 by President Fidel Ramos. He earned a law degree from the University of the Philippines, and has Masters degrees in Comparative Law from Southern Methodist University and U.C. Berkeley. Prior to his appointment he taught law and worked as a bar examiner.

-- Associate Justice Artemio V. Panganiban, age 69: Appointed to the Supreme Court in 1995 by President Ramos, Panganiban has been described as the most prolific writer and one of the most articulate jurists on the Court. Prior to his appointment he was a private attorney, a high-level manager at the "Philippine Daily Inquirer" (a Manila English-language newspaper), and a member of the Pontifical Council for the Laity, appointed by Pope John Paul II.

-- Associate Justice Leonardo A. Quisumbing, age 66: After

a long career in the executive branch, Quisumbing was appointed to the Supreme Court in 1998 by President Ramos. Prior to his appointment, he served as Acting Secretary of Defense, Acting Executive Secretary under President Ramos, and Secretary of Labor and Employment. He also practiced law as a partner in a major firm.

Next Steps

16. (U) On December 2, the JBC officially submitted the list of three candidates to President Arroyo. The President must appoint the next Chief Justice within 90 days of the date the position becomes vacant (i.e., on or about March 20). In the past, the President has typically appointed a successor within about a week after the retirement of the incumbent Chief Justice, so the appointment could be imminent. The President's appointment becomes effective immediately and does not require confirmation by Congress. After the President appoints the new Chief Justice, the process will begin to fill the vacancy for associate justice left by Davide's successor. The procedures for appointing a new associate justice will be the same as for the current vacancy.

USAID Project

17. (U) The USAID-funded NGO "Transparency and Accountability Network" (TAN) launched a project called "Supreme Court Appointments Watch" to encourage greater civil society participation in the appointment process and to ensure greater transparency. TAN worked as part of a coalition to conduct public information campaigns and invite the public to submit reports to the JBC on the nominees. Other coalition members include The Asia Foundation; Alternative Law Groups, Inc.; the Association of Law Students of the Philippines; the Integrated Bar of the Philippines; the Lawyers' League for Liberty; and the Philippine Association of Law Schools. This project is similar to the recent USAID-sponsored "Ombudsman Appointment Watch II," which facilitated wider public participation in the appointment process that resulted in the choice of new Ombudsman, Maria Mercedes "Mercy" Gutierrez (refs A-B).

Comment

18. (SBU) The new Chief Justice will need to press forward on the judicial reforms begun by Davide. Davide is widely respected for his efforts to reform the Philippine judicial system by trying to reduce the backlog of cases, hire more judges, and remove corrupt officials. The new Chief Justice will have to work hard to continue these reforms -- despite Davide's best efforts, the judiciary still is afflicted by corruption; poor pay and working conditions for judges and other employees; lack of computers; and not enough use of alternative dispute resolution methods that would help unclog court dockets. In addition, Davide's successor will need to work on further institutionalizing dedicated Intellectual Property Rights (IPR) courts. He will also need to consider establishing special courts to handle terrorism and trafficking in persons (TIP) cases, all of which the USG supports. All three candidates to replace Davide have solid reputations, which is positive for the reform effort.

JONES